

STATE PLAN FOR MISSOURI

Response to Legal Services Corporation 1998 Program Letter

A. Introduction

Missouri's six legal services programs are constantly striving to provide effective and efficient legal representation for low-income persons throughout the state. Their effectiveness and efficiency in providing this representation have earned them the respect and support of The Missouri Bar and Missouri's Judiciary. Members of these groups formed the Coordination Committee for Legal Services Corporation and Related Pro Bono Program (Coordination Committee) to provide comprehensive answers to the questions posed in Legal Services Corporation's 1998 Program letter and to study how to continue the efficiency and effectiveness of the six offices.

Members of the Coordination Committee were:

Ron Mitchell, Chairperson
Millie Aulbur, *Pro bono* Coordinator, The Missouri Bar
Joseph Bednar, Jr., Office of the Governor
The Honorable Duane Benton, Chief Justice, Supreme Court of Missouri
Edward Berg, Director, Mid-Missouri Legal Services Corporation
Keith Birkes, Executive Director, The Missouri Bar
Toni H. Blackwood, President of the Board of Directors, Legal Aid of Western Missouri
N. Barrett Braun, Chair, Missouri Lawyer Trust Account Foundation
Joseph F. Devereux, Jr., President, Board of Directors, Legal Services of Eastern Missouri
Doreen Dodson, Chair, ABA Standing Committee on Legal Aid and Indigent Defendants
Lavonda Duncan, Administrative Assistant, Meramec Area Legal Aid Corporation
John Essner, Volunteer Attorney Coordinator, Legal Services of Eastern Missouri
Stephen Gaunt, President of the Board of Directors, Meramec Area Legal Aid Corporation
Richard Halliburton, Director, Legal Aid of Western Missouri
Doug Kays, Director, Legal Aid of Southwest Missouri
Mike Kean, Vice-President of the Board of Directors, Meramec Area Legal Aid Corporation
Sheldon Lackey, Administrator, Legal Aid of Southwest Missouri
F. Wm. McCalpin, Member, Legal Services Corporation, Board of Directors
Michael Mergen, President of the Board of Directors, Legal Aid of Southwest Missouri
Sidney Pearson, Acting Director, Meramec Legal Aid Corporation
Lew Polivick, Director, Southeast Missouri Legal Services
Dianne Taylor, Director, Legal Services of Eastern Missouri
David Thayer, President, Board of Directors, Mid-Missouri Legal Services
The Honorable Richard B. Teitelman, Missouri Court of Appeals, Eastern District
James Tweedy, President of the Board of Directors, Southeast Missouri Legal Services, Inc.
Gayle Williams, Associate Director, Legal Services of Eastern Missouri
Marvin E. (Bunky) Wright, President, The Missouri Bar

B. Response to 1998 Program Letter

1. *How are intake and delivery of advice and referral services structured within the state? What steps can be taken to ensure a delivery network that maximizes client access, efficient delivery, and high quality legal assistance?*

Missouri's six legal services have intake, advice and referral systems that are coordinated in geographical regions to provide easy and even access to eligible clients. All six programs essentially conduct intake by telephone. The only exceptions are those few clients who walk into legal services offices at which time their intakes are handled immediately, and those whose contacts with program attorneys or volunteer attorneys are through the significant and varied outreach activities that all of programs have. *See Pages 7,8 and 11 infra.* Clients throughout the state can reach the appropriate legal services program office without cost by either making a local telephone call or utilizing the programs' toll-free numbers. Clients who call a legal services office will speak to a paralegal either immediately or very shortly after the initial qualifying information is obtained. Often the paralegal, under the supervision of an attorney, can offer appropriate advice or referral information to dispose of a case without further client contact. If this occurs, a supervising attorney reviews the advice or other information that was given shortly afterward. If the case cannot be disposed of by brief service from the paralegal, the file is then promptly delivered to the appropriate attorney or group of attorneys for further handling. Even the great majority of these cases can be handled to conclusion without the client being required to travel to the legal services office. The programs regularly review the effectiveness of their intake systems and the directors of the programs meet and share information with each other about their intake systems and how they might be improved.

All of the programs offer a variety of means besides the telephone for client access to services. If an in-person conference is required and the client is physically unable to travel to an office, each legal services program accommodates the client by sending a paralegal or attorney to the client's home. In those Missouri programs employing a judicare delivery approach, clients whose cases require service beyond the initial intake are promptly referred to a private judicare attorney whose office is accessible to the client. Those programs that have Spanish-speaking clients have Spanish-speaking staff for the intake process. All programs, upon request, provide interpreters for hearing-impaired clients and for clients who speak other languages. The programs also have available a statewide relay system for hearing-impaired callers and most of the programs maintain their own TDD equipment to accommodate deaf clients.

Intake personnel in all of the programs have been thoroughly trained to make appropriate referrals for applicants who cannot be handled by the program. Applicants may be referred to social service agencies, other advocacy agencies and local and statewide lawyer referral systems.

The Missouri programs recently adopted a uniform system for referring clients from the program that the client initially contacted to a program that is more appropriate for handling the client's problem. Previously, some programs did an initial intake before referring the client to the appropriate program. This practice often resulted in a duplication of processes and a delay in providing the client services. Under the current system, all of the programs instruct the client to telephone the appropriate legal services office and the client has immediate access to the proper program.

The six programs have intake, advice and referral systems to identify and address legal issues of special population clients. For example, some of the programs have special hotlines for persons living with AIDS. The programs also educate special population clients in their geographical areas by going to homeless shelters, domestic violence shelters, senior citizens' centers, nutrition centers and other outreach locations.

During statewide planning sessions, Missouri's six programs have considered whether a centralized statewide intake system would provide better and more efficient services to their clients and have concluded that it would not. *See Section 7, infra.* However, the programs are considering whether special, centralized intake systems for elderly clients might better serve that clientele. One of the programs, in cooperation and collaboration with the other five programs, has applied for an AOA (Administration on Aging) grant to fund a statewide hotline for senior citizens. Funding from the grant would support establishment of the hotline. This specialized service could be offered to senior citizens throughout the state without disrupting the intake systems in the six legal services offices.

STRENGTHS OF THE CURRENT APPROACH

The current telephone intake systems of all of Missouri's legal services programs provide quick, easy and no cost access to services for clients. The current system permits the programs to quickly offer clients advice, referral or other brief appropriate services.

The current configuration of programs in Missouri is familiar to each client community within each program's service area. Toll-free and local telephone numbers have been widely disseminated among the client community and there is virtually no confusion among clients as to the appropriate program to contact.

Referrals among programs are made quickly and efficiently as necessary.

All of the programs employ outreach through a combination of staff and private volunteer attorneys to identify and serve special population clients and those with transportation barriers.

All programs maintain a system of attorney review of telephone or other advice given to brief service clients. Most programs' intake systems are computerized, and all programs provide some form of self-help or other informational brochures and materials to clients that are not accepted for full representation. In areas with a Hispanic population, materials are printed in Spanish.

WEAKNESSES OF THE CURRENT APPROACH

Lack of statewide website for disseminating information to potential clients.

The legal needs of many low-income Missourians are still not being met.

Those clients who are provided with only brief services through telephone intakes because of insufficient staff and other resources to provide more extensive representation are often unable to represent their own interests adequately.

More and better materials to assist clients in protecting their own interests need to be developed.

GOALS FOR IMPROVING THE CURRENT APPROACH AND TIME TABLE

Establish a statewide hotline intake system for senior citizens by the end of 1999 if the

programs are awarded an AOA grant. If the grant is not awarded in this grant cycle, reapply for it next year or when it is next available.

Disseminate substantive information directed to clients throughout the state on The Missouri Bar's web site and other legal services program web sites by May 1, 1999. This information will include contact with public entities such as schools and libraries to provide computer access to the web for potential clients and other interested persons who are seeking information on the services and intake procedures of the state's legal services programs.

Determine the feasibility by May 1, 1999, of securing the cooperation of private law firms, public schools and public libraries in making their technology, such as fax machines and e-mail, available to legal services clients in remote parts of the service areas.

2. Is there a state legal services technology plan? How can technological capacities be developed statewide to assure compatibility, promote efficiency, improve quality, and expand services to clients?

Missouri's six legal services programs have formed a technology task force to develop a plan to upgrade technology for the programs' staffs, volunteer attorneys and client access to services. The task forces will coordinate standards for hardware and software upgrades by the programs and will establish written protocols for information exchange. The six programs have always cooperated in sharing information about technology. The programs recently collaborated with The Missouri Bar to develop a web page on the bar's web site. All of the offices have had access to e-mail through Hands Net. Although this system did not allow for confidential sharing of client information, it did provide a communication network and the programs utilized facsimile devices to share confidential materials.

STRENGTHS OF THE CURRENT APPROACH

The programs have kept abreast, as funding permits, of technological advances, and have complied with LSC requirements in this area.

The programs have established a statewide technology task force.

Every service provider has a Pentium computer.

Virtually, all caseworkers have desk computers.

Communication and cooperation through technology such as fax machines, telephone systems and e-mail, among the six programs are excellent. Referrals have been made promptly.

All of the programs that have a large volume of telephone intakes have state of the art telephone systems with voice mail and teleconferencing capabilities.

All of the programs have video capacity for client education programs, depositions and staff training.

Each program utilizes Internet resources to disseminate information to the public and to share information among programs.

Each program has TDDs for assisting hearing-impaired clients.

The programs' Missouri Bar web site contains PAI recruitment materials and volunteer forms.

WEAKNESSES OF THE CURRENT APPROACH

Each program has developed differing computer systems and uses different software.

The e-mail capability of the programs is not being utilized to its greatest potential. Communication among programs, although adequate, can be improved.

Dissemination of information through the Internet to the public and among programs is not being utilized to its greatest potential. Utilization of Internet resources can be improved.

Gathering documents from clients that are at some distance from program offices can take several days by mail. When time is of the essence in responding to pleadings, it can be crucial to collect such information quickly. More timely collection procedures through technology need to be established.

GOALS FOR IMPROVING THE CURRENT APPROACH AND TIMETABLE

The programs will establish secure e-mail communication among programs and written protocols for use of e-mail, and will use e-mail for referrals and routine communication by March 15, 1999.

A state legal services web site will be established by May 1, 1999, for (1) dissemination of client information concerning availability of services and legal information of interest to the client population, (2) dissemination of information among programs, such as pleading and brief banks, and bulletin boards for task forces and (3) providing training materials and practice manuals for volunteer and judicare attorneys.

The programs will establish a plan to increase Internet access by potential clients and client groups by March 15, 1999. Such a plan will involve existing client groups, public agencies, such as schools and universities, and area law firms.

Each program will have Internet access and e-mail capability on each casehandler's desktop by January 1, 1999.

Each program will establish a network of facsimile device access points for the client population by September 30, 1999, using existing law firms and public facilities.

The programs will coordinate training for staff, volunteer attorneys and judicare attorneys to maximize the use of the programs' technology.

What are the major barriers low-income persons face in gaining access to justice in the state? What efforts can be taken on a statewide basis to expand client access to the

courts, provide preventive legal education and advice, and enhance self-help opportunities for low-income persons?

The six legal services programs work with each other and with other organizations interested in providing legal services to the low-income persons in a variety of ways to improve access to justice. Each program has experimented with various delivery options and has developed a system that effectively serves the needs of that program's particular service area. The rural legal services programs have a large judicare component whereas the urban legal services programs rely more heavily on staff attorneys. However, the following major barriers continue to restrict access to the courts for low-income persons:

Lack of money. The primary barrier for low-income persons gaining access to justice is adequate funds to hire sufficient attorneys to meet the demand for services. Although the legal services provided by Missouri legal services programs are extremely cost-effective, the programs do not have adequate funding to meet the needs of more than a fraction of the state's low-income population. A statewide needs assessment that was conducted in 1994 found that only about 20% of the legal needs of Missouri's low-income population are being met.

***Pro se* and *in forma pauperis* access to courts.** Low-income persons cannot afford attorneys at the market rate. *Pro se* access to the courts is still somewhat limited. More education of court personnel is needed to improve *pro se* access. Court filing fees present a significant barrier to many low-income persons.

Lack of mediation programs for low-income persons. Expansion of alternative dispute resolution programs that would be available to low-income persons could drastically reduce the cost of providing legal services to low-income persons. Although two programs currently provide free mediation services, Missouri lacks adequate, affordable mediation programs for the low-income population.

Lack of transportation. Many low-income persons cannot afford the necessary transportation to legal services programs, especially in rural areas where public transportation is unavailable.

Restrictions imposed by Congress. Restrictions imposed by Congress on legal services providers are also barriers that need to be addressed. One of the most troublesome restrictions is the prohibition on legal services providers requesting or collecting attorney fees from opposing parties. The restriction on filing class actions suits removes one tool that all attorneys, other than those working for a legal services program, have at their disposal to help clients.

STRENGTHS OF CURRENT APPROACH

Legal services providers have identified and are addressing the access problems that are most prevalent in their particular service area as well as problems that are prevalent throughout the state. Legal services providers have drawn upon years of experience with local communities in fashioning delivery systems that most efficiently and effectively serve their client population. They have established solid working relationships with local attorneys, judges and social service providers. Through voluntary cooperation, the six legal services programs, working cooperatively and in conjunction with The Missouri Bar and other stakeholders, have made significant progress in increasing the accessibility to justice for legal services clients throughout

the state.

All of the programs have worked cooperatively, and continue to do so, to obtain more funding for legal services programs. *See page 14 infra.*

The legal services programs have cooperated in statewide efforts to make waiver of filing fees for low-income persons represented by a legal services organization automatic. Although the state legislature passed the legal services drafted waiver legislation during its 1998 session, the governor vetoed it. The programs will continue in the next legislative session to respond to legislators' requests to draft and testify in support of this legislation.

All the legal services programs have developed ways of addressing transportation problems. In the urban areas, the legal services programs provide outreach programs in homeless shelters, free health clinics and senior citizens' centers. In the rural areas, the legal services programs use judicare and volunteer attorneys so that the clients are not required to come to the program's office in order to see an attorney. All of the programs have free telephone numbers and some programs have hotlines for special projects, such as AIDS and domestic violence. All of the programs provide an attorney or paralegal to travel to the residences of clients who are homebound and in need of personal contact. The program that receives the LSC statewide migrant worker grant provides outreach throughout the state to the migrant farm worker population.

The six legal services offices and The Missouri Bar cooperate in producing materials and programs that inform low-income persons of legal rights and responsibilities, available options to resolve legal grievances, and the availability of legal services to assist them in protecting their rights:

Information booklets and brochures. Each of the legal services programs develops booklets and brochures for its client population. These materials are culturally and linguistically relevant to the various low-income populations within the state. For example, some of the programs have written information in Spanish about legal issues pertaining to migrant workers and domestic violence and they have shared this information with the other programs. The legal services programs also work with The Missouri Bar in preparing and distributing brochures and booklets on preventive legal measures in the following areas: landlords and tenants' rights, adult abuse orders, consumer affairs, senior citizens rights, homeless persons rights and the rights of people living with AIDS. The legal services programs distribute these publications statewide through the Division of Family Services, battered women shelters, Social Security offices and other social services and legal agencies. The Missouri Bar recently published the tenth edition of the Senior Citizen's Handbook, which is funded by The Missouri Bar Foundation. The bar has distributed over 30,000 copies of the handbook in the last two years. It is also available on the bar's web site.

Presentations on legal topics. Each of the legal services programs offers educational programs at local libraries, shelters, senior centers, literacy programs and other locations on legal rights and responsibilities, available options to resolve legal grievances, and the availability of legal services to assist them in protecting their rights.

Public service announcements, newspaper columns and billboards. Several of the legal services programs have utilized local newspapers and radio and television stations to provide information on various legal topics. One program writes a regular column on legal issues for area-wide newspapers. Some of the offices have billboards that explain what information is available on the 1-800 numbers. Information about all of the legal services programs is currently available on The Missouri Bar's web site. A web page and bulletin board to be used jointly by the legal services programs is being developed and should be in place by 1999.

All of the legal services programs are working together to educate judges and court personnel about how *pro se* programs, closely monitored by the local legal services office, can be a viable option for low-income persons. For example, legal services programs have trained court clerks to assist *pro se* parties in how to fill out the proper forms for filing small claims and adult abuse petitions. Legal services programs also sponsor *pro se* clinics to teach low-income participants how to file marriage dissolution petitions *pro se* and to provide assistance in filling out the forms. A significant percentage of low-income persons are functionally illiterate and would be unable to participate in the *pro se* process without some assistance. Currently the legal service providers share forms and information related to their *pro se* programs.

Although insufficient alternative dispute resolution programs exist, legal services providers are working together to support and expand existing programs statewide. For example, legal services providers are participating in a pilot program sponsored by the Office of State Courts Administrator (OSCA) called MARCH (Mediation Achieving Results for Children). In the eight-county pilot area, legal services attorneys are obtaining court approval for agreements reached in mediations that resolve custody, visitation, child support and paternity issues. Due to the success of this program, efforts are underway to expand it statewide and to increase the matters addressed by mediation through the MARCH program. One program, through an AmeriCorp project, provides free mediation to low-income disputants to resolve child custody and visitation issues.

All of the programs provide technology, interpreters and materials to assist clients who may be hearing impaired or who need language assistance.

WEAKNESSES OF THE CURRENT SYSTEM

Too many low-income persons are denied access to the courts because of *in forma pauperis* denials by the court and lack of support for *pro se* filings.

Sharing of pleadings, forms and substantive legal information among legal services providers has not been as efficient as it could be. Prior to the funding cuts of 1996, efforts were underway to form an Internet pleadings bank and database, but these efforts lost momentum after funding was cut.

Missouri lacks sufficient affordable mediation programs. Although legal services providers are utilizing all available programs, not enough mediation programs exist to meet current demand.

A coordinated approach to creating and distributing educational and self-help materials is

lacking.

Many low-income persons are unable to access the justice system due to a lack of resources among legal services programs and due to restrictions imposed by Congress.

GOALS FOR IMPROVED ACCESS

Continued expansion of state and local funding sources. *See page 14 infra.*

The six legal services programs will continue to work together to expand *pro se* programs and to educate court personnel. The legal services programs will continue to share information and forms relating to *pro se* programs and clinics. The six legal services programs will also continue to support efforts to make Missouri courts and laws more *pro se* friendly. The programs will also seek an opportunity to do a presentation on *pro se* representation at Missouri's Judicial Conference. The goal is to make a *pro se* clinic available in each legal services program area by the end of 1999.

The six legal services programs, in conjunction with other stakeholders, will continue their efforts to develop and expand alternative dispute resolution programs for low-income persons. The MARCH Mediation Program will be expanded to at least two additional legal services program areas by the end of 1999.

Improved information exchange systems. *See page 4 supra.*

The legal services programs will continue to work with The Missouri Bar and other stakeholders in preparing and distributing informational booklets and brochures about issues affecting the low-income community. The legal services programs will continue to provide lectures and educational programs at local libraries, shelters, senior centers, literacy programs and other locations and to disseminate information through public service announcements, newspapers and billboards. By September of 1999, the programs will create standardized self-help materials for distribution to "brief service" clients throughout the state.

The programs, working together through task forces, will identify issues affecting restricted classes of people, and will refer these cases to LAPP (Litigation Assistance Partnership Project) or to other *pro bono* counsel.

Do program staff and pro bono attorneys throughout the state receive the training and have access to information and expert assistance necessary for the delivery of high quality legal services? How can statewide capacities be developed and strengthened to meet these needs?

Each of Missouri's six legal services programs is committed to providing substantial training to its attorney staff and to *pro bono* and judicare attorneys. Each program budgets sufficient funds to provide the training necessary to meet at least The Missouri Bar's annual fifteen-hour CLE requirement. Nearly all of the state's legal services attorneys are provided training opportunities that go well beyond the bar's minimum requirements. This is made possible in large part by an agreement with The Missouri Bar that allows staff attorneys and permanent volunteer attorneys to attend Missouri Bar

continuing legal education (CLE) programs at no cost or at a greatly reduced cost. Most of the state's programs have also negotiated individually with other CLE providers, such as local bar associations and universities, for reduced-cost CLEs. Each of the programs also sends some staff attorneys each year to the National Poverty Law Training events and conferences sponsored by NLADA or other national training programs. The legal services attorneys and the various CLE providers annually review together how educational programs can be revised and expanded.

The legal services programs also provide annual training at no cost for private volunteer and judicare attorneys. Private attorneys who assist programs are surveyed to determine their training needs, and training programs are then tailored to attempt to meet the greatest needs. A number of private volunteer attorneys also participate as volunteer trainers in program-sponsored training events.

However, Missouri legal services programs have long recognized that training tailored to the needs of the state's legal services staff is most efficiently and effectively provided when coordinated statewide among all the programs. In past years when training funds were more readily available through state support, annual statewide legal services conferences were held to provide training in a variety of substantive poverty law areas. These were well attended by nearly all of the state's staff attorneys and paralegals and some *pro bono* and judicare attorneys. The annual conferences provided training in specialty areas of poverty law and also provided an opportunity for program staff across the state to network and strategize on common issues. This process also included the establishment of statewide task forces that would meet periodically both to strategically plan advocacy efforts within each substantive area and to receive further training in that area.

Through this planning process, the state's programs have agreed to seek and identify funding to support the reestablishment of the statewide annual training conference. Although there has been continued informal communication and cooperation among experienced staff attorneys throughout the state on particular projects or issues, the programs have agreed to reestablish statewide task forces to better coordinate training, issue identification and use of the programs' resources. Each task force will have the responsibility for disseminating current developments in the law to the programs throughout the state and for facilitating discussion and analysis of those developments among all of the state's programs. The task forces will again meet on a regular basis by teleconference or in person and will be charged with developing brief and pleadings banks and practice manuals that can be used by staff, volunteer and judicare attorneys throughout the state.

STRENGTHS OF THE CURRENT APPROACH

Each program provides a significant level of staff and *pro bono* attorney training programs.

The Missouri Bar, local bar associations and universities provide a significant amount of quality training at no cost or at a very low cost to program attorneys and private volunteer attorneys throughout the state.

Information exchange and strategy discussions continue among the programs on an

informal basis.

Management and administrative training is received regularly by management and administrative staff through twice-yearly regional program directors and regional administrators meetings, through twice-yearly meetings of The Missouri Bar's Delivery of Legal Services Committee, and through regional and national training events sponsored by NLADA and the Management Information Exchange.

WEAKNESSES OF CURRENT APPROACH

Since the loss of state support funding, there has not been a coordinated statewide approach to training.

The lack of a coordinated statewide training effort has resulted in somewhat less effective training of the state's legal services attorneys and paralegal staff and *pro bono* and judicare attorneys.

GOALS FOR IMPROVING THE CURRENT APPROACH AND TIMETABLE

The state's six programs, with coordination assistance from The Missouri Bar, will cooperatively re-institute and fund the annual conference in Spring of 1999. The conference will include program staff, volunteer and judicare attorneys and will focus on poverty law and technology issues. The conference will recapture the effectiveness of statewide training that was previously available through state support and will provide a forum to discuss common legal issues, approaches and strategies to better serve clients.

The programs will re-institute statewide task forces by specialty by December 1, 1998. These task forces will enable the programs to share information, keep current in the specialty areas and maintain a current and effective technology plan.

The six programs will cooperatively launch a statewide legal services web site that contains information on all of the six programs by May 1, 1999. This web site will provide a clearinghouse for information about significant judicial, legislative and administrative developments affecting clients and will make available a variety of training materials statewide.

The six legal services programs will cooperate in compiling and producing a directory of information on staff in the six programs and their respective areas of expertise, and the directory will be distributed to the staffs of the six programs by December 1, 1998.

The programs will establish a task force to explore funding for ongoing periodic statewide training programs by December 1, 1998.

The Missouri programs will collaborate on creating training and practice manuals for staff, volunteer and judicare attorneys throughout the state. Work on the manuals will commence as the task forces are re-established by December 1, 1998.

5. ***What is the current status of private attorney involvement in the state? What statewide efforts can be undertaken to increase the involvement of private attorneys***

in the delivery of legal services?

Efforts by the legal services programs, local bar associations and The Missouri Bar to recruit volunteer attorneys have been exceptional in both intensity and duration. Each of Missouri's legal services programs vigorously promote private attorney involvement, with some of the offices having staff persons whose main duty is to coordinate volunteer attorney activities. More than 2,700 lawyers statewide participate in *pro bono* programs and provide more than 340,000 hours of service to the legal services programs in their areas. Most of these hours are provided through judicare programs or by volunteer attorneys accepting cases referred from the local legal services office. In Missouri's two urban areas, the legal services programs have developed special projects for small law firms, large law firms and in-house corporate counsel. The legal services programs located near law schools have developed projects for law students, including a domestic violence clinic. Lawyers also participate in various other programs including:

Church ministry projects that provide free legal services to low-income persons.

Pro bono projects provided by retired members of the judiciary.

Outreach Center projects.

Homeless Shelters projects.

AIDS projects.

Pro se educational seminars.

Training for *pro bono* attorneys.

The six legal services programs' efforts to promote private attorney involvement are supported by The Missouri Bar and local bar associations throughout the state. The Missouri Bar has always encouraged lawyers to do *pro bono* work. Annually, the Missouri Bar president and the Chief Justice of the Supreme Court send a letter asking lawyers to volunteer their services. Every lawyer who volunteers receives a thank-you letter from the bar president. The bar's CLE department and staff from the legal services programs meet and evaluate current programs and discuss new programs to attract and sustain volunteer lawyers. The bar provides continuing legal education at no cost or at a reduced cost to lawyers who volunteer their services to their local legal services program. The bar's CLE department publishes poverty law materials that are available as desktop books or on disc. The materials are also available through the Internet. The CLE staff and legal services program directors annually review these materials. The bar recently began a mentoring program that could have great potential for increasing private attorney involvement. Often lawyers express a desire to volunteer with a legal services program but feel they lack the necessary expertise. These lawyers could be provided with the appropriate mentor. One of the mentors in the current pilot area is the legal services program director in that area.

When the federal government began making drastic cuts in federal funding, the bar recognized that the private bar must do more. In 1995, the bar president appointed the Commission on Legal Services to study the problems and make recommendations. Pursuant to those recommendations, the bar intensified its efforts to ensure adequate legal services for low-income persons by supporting various funding initiatives for legal services programs, by encouraging lawyers to volunteer their services and by assigning a staff person to coordinate *pro bono* activities. The bar also has a special section on its web site about how to become a volunteer attorney.

In its efforts to obtain state and federal funding, The Missouri Bar was often asked by

legislators, “What are Missouri’s lawyers doing to alleviate the problem of inadequate resources for legal representation of low-income persons?” While the bar was aware of the many hours of *pro bono* provided by Missouri lawyers, no attempt had been made to determine the extent of services provided. Starting with the 1998 dues statement, each lawyer was asked to voluntarily report the number of *pro bono* hours provided in previous year. The bar asked each lawyer to set an annual aspirational goal of forty (40) hours of *pro bono* services. Approximately 10% of Missouri’s attorneys reported *pro bono* hours. Those lawyers reporting provided over 100,000 hours of representation to low-income persons. The value of these services is over \$10,000,000.

In order to recruit more volunteer attorneys, The Missouri Bar’s Public Information Department has featured special reports in its various publications on the legal services programs in Missouri and their particular needs for more volunteers. Every issue of every bar publication contains a volunteer attorney form or a plea for financial support. The bar also funded and prepared a video on the need for volunteer attorneys that is available for recruitment of attorneys. Every member of the bar’s Board of Governors has been asked to promote *pro bono* efforts in the governor’s district and has been provided with an information packet with the video and brochure to facilitate presentations on the need for volunteer attorneys. CLE ethics programs now also include reminders that Missouri lawyers have an ethical duty to provide *pro bono* services.

The six legal services providers, local bar associations and The Missouri Bar annually recognize lawyers who provide *pro bono* services. These lawyers are recognized at bar functions and in bar publications.

STRENGTHS OF THE CURRENT APPROACH

Each of the legal services programs is very active in efforts to promote private attorney involvement. Each program has unique knowledge of what approach is most effective in its particular geographic area. All of the legal services programs report that at least 25% of the lawyers in their area are active in *pro bono* activities.

The six programs, local bar associations and The Missouri Bar collaborate on recruitment efforts, free CLE for volunteer attorneys and development of poverty law materials for program and volunteer attorneys.

Volunteer attorneys have the opportunity to provide brief advice and counseling at outreach programs and presentations to special populations, such as senior citizens.

Transactional attorneys are utilized to provide advice and counseling for not-for-profit corporations that serve low-income persons.

Volunteer attorneys have opportunities to serve as general counsel for not-for-profit corporations that serve low-income persons.

Statewide programs exist to utilize volunteer attorneys in rural areas where there may be fewer volunteer attorneys available.

With The Missouri Bar coordinating statewide *pro bono* efforts, its many resources are available for promoting private attorney involvement.

The continued and consistent support of the leadership of The Missouri Bar for legal services has resulted in institutionalizing the bar's support of the legal services programs.

WEAKNESSES OF THE CURRENT APPROACH

The current voluntary reporting system does not adequately reflect the level of pro bono services in Missouri.

Both local and statewide campaigns to recruit volunteer attorneys have not resulted in any significant increased capacity to provide legal services to low-income persons, especially in time-consuming cases.

GOALS FOR IMPROVING PRIVATE ATTORNEY INVOLVEMENT

The Missouri Bar and the legal services programs will continue to monitor the effectiveness of voluntary reporting on private attorney involvement and to encourage all attorneys to report their *pro bono* activities.

The Missouri Bar and the legal services programs will continue to encourage the judiciary, especially the Supreme Court of Missouri, to promote *pro bono* work.

The legal services programs and The Missouri Bar will continue to explore ways to increase private attorney involvement through recruitment efforts, offering training opportunities and recognizing lawyers who provide *pro bono* services.

The Missouri Bar and the legal services programs will continue to recruit and utilize volunteer transactional and business attorneys.

The legal services programs and The Missouri Bar will continue to coordinate private attorney involvement projects and *pro bono* efforts statewide.

The legal services programs and The Missouri Bar will continue to make sure that the technology available at the legal services offices and at The Missouri Bar is available to volunteer attorneys to assist them in their representation of low-income persons.

The legal services programs and The Missouri Bar will continue to work with government agencies on ways their lawyers can provide *pro bono* services.

The Missouri Bar and the legal services programs will continue to explore ways to ensure that all areas of the state have sufficient volunteer attorneys.

6. What statewide financial resources are available for legal services to low-income persons within the state? How can these resources be preserved and expanded?

Presently the most significant statewide financial resource available for Missouri's legal services programs is an appropriation from the state legislature. The appropriation was first approved by the legislature in 1995 at a statewide level of \$650,000.00. The 1998 legislature approved an appropriation of one million dollars, a 54% increase over the initial appropriation.

The state legislation funding effort began in earnest in 1992 with the formation of a

steering committee led by former Missouri Bar President, Maurice B. Graham, to seek a state appropriation for Missouri legal services programs. By the following year the campaign had the official name of "Missourians for Equal Justice." The campaign listed on its letterhead a wide representation of attorney and non-attorney participants from across the state. These included the mayors of Kansas City and St. Louis, former Missouri bar presidents, well-known political participants from the private business sector, members of The Missouri Bar Board of Governors, and members of the boards of legal services organizations in the state.

The campaign's initial goal of six million dollars was an ambitious one, but it reflected the enthusiasm and support of the statewide campaign membership. The Missouri Bar Board of Governors added the bar's official support by endorsing legislation supporting the funding initiative. Although the 1994 Missouri legislative session appropriated \$1,000 for legal services programs, the governor vetoed it.

The committee did more work in the following year, including personal meetings with the governor by key members of the committee and two Missouri legal services program directors. That year the first significant appropriation of \$650,000.00 was passed by both houses and signed by the governor.

To achieve this success, as a goal of the 1995 state legal services plan, all of Missouri's six legal services programs have worked closely together, with The Missouri Bar and with other participants in the Campaign for Equal Justice. The campaign was a galvanizing force for the cooperation among the state's legal services programs. With the help of consultants and public relations firms, a packet of information was put together. This packet includes case studies, statistics and other descriptive information from all of Missouri's six legal services programs. Campaign newsletters were distributed periodically so that supporters and potential supporters throughout the state could be kept informed of the campaign's progress. Southwestern Bell donated a professional video that tells the stories of legal service clients across the state. Ultimately, local legislative support from representatives in each of the legal services program areas throughout the state provided the necessary votes in critical legislative committees to secure the appropriation. The goal now is to secure six million dollars in annual state funding for Missouri legal services programs within the next four years. Local political support for each of the Missouri's six legal services programs will continue to buttress efforts to reach this goal.

Prior to 1998 and the recent United States Supreme Court *Phillips* decision, the most significant statewide legal services financial resource available had been the Missouri IOLTA program. The Missouri Lawyer Trust Account Foundation was established by Missouri Supreme Court Rule in 1984 with significant participation by Missouri legal services program staff attorneys. One of these attorneys was appointed to the initial board of directors of the IOLTA program and through the drafting of the program's by-laws established the program's primary purpose as that of providing funding to the state's legal services programs.

The Missouri IOLTA program began as a strictly voluntary program, and legal services staff members around the state, together with the program's director, devoted considerable efforts to recruiting private attorneys to participate. In 1990, with substantial participation and urging of the state's legal services programs, the Missouri IOLTA program was modified by the Missouri Supreme Court to an opt out program. With this change, statewide revenues continued to grow considerably until suffering a major

reversal from the rapid decline in interest rates beginning around 1991. Initial and continuing support for Missouri's IOLTA program throughout the state has been bolstered in large part by appointments to the IOLTA Board from major local bar associations and foundations, The Missouri Bar, and the state's largest legal services programs. Widespread acceptance and support has also been fostered by the allocation of a portion of IOLTA funding to individual annual grants to fund projects designed to improve the administration of justice. As federal funding for legal services programs has declined, and as IOLTA revenue declined due to decreases in interest rates, the IOLTA board had increased the percentage of IOLTA funds to be distributed to the state's legal services programs. In the current year, approximately 90% of IOLTA funds available for distribution were awarded to the state's legal services programs. Allocation among the six legal services programs of the state is based upon a three-part formula that incorporates the size of the poverty population in each service area, IOLTA revenues derived from each service area, and overall IOLTA revenues throughout the state.

Unfortunately, the *Phillips* decision has now placed Missouri IOLTA funds in jeopardy. In two recent meetings of the Missouri IOLTA board, they determined that all distributions of IOLTA funds to legal services programs and other recipients must be halted immediately. The board is in the process of hiring counsel to produce a legal opinion on the effect of the *Phillips* decision on the Missouri IOLTA program. The board will meet again in October of 1998 to make a further determination as to whether 1998 allocated funds can be distributed. In the meantime, Missouri's legal services programs are left in a state of limbo both as to anticipated 1998 IOLTA allocations and as to future IOLTA funding. Unless, and until a favorable legal resolution is reached, it appears likely that Missouri legal services programs cannot rely upon IOLTA funding. A final resolution may not be forthcoming for two to four years. This may result in a loss to Missouri legal services programs of approximately \$800,000.00 annually based upon the current allocation.

Growing out of the Missouri legal services programs' state wide planning efforts in 1995 was the creation by Missouri Bar President, Laurence Tucker, of The Missouri Bar Commission on Legal Services. The Commission met throughout 1996 and was composed of former Missouri Senators John Danforth and Thomas Eagleton, Missouri Supreme Court Judge Steven Limbaugh, Jr., Missouri bar officers, corporate representatives and corporate counsel from various business enterprises, and three (3) Missouri legal services programs directors. Chaired by Missouri Bar president-elect, Charles Weiss, the Commission met throughout 1996 to address the problems of (1) likely continued reduction in federal funding for the legal services providers in Missouri and (2) assuring equal access to justice for all of Missouri citizens.

The Commission's final report was issued in January, 1997 and included a number of recommendations for pursuing statewide funding opportunities for the state's legal services programs. Recommendations in the final report included increased funding from the state's general revenue (addressed above), dedicated filing fee surcharges (thus far not supported by the Missouri's Bar Board of Governors), dedicated filing fee surcharges for real estate document filings, appropriating portions of the state punitive damages fund for legal services, and contractual agreements between legal services programs and state and local governments to provide cost effective legal services in situations where government has a duty or the need to furnish these services.

In addition to increased *pro bono* services, the Commission recommended a target donation of \$50 per year per attorney to be included on the Missouri Bar annual

enrollment form as a voluntary donation. The Missouri Bar Board of Governors endorsed this concept, but the Missouri Supreme Court declined to adopt it. The Missouri Bar, through its publications, continues to encourage donations to the state's legal services programs. The Commission also recommended increased efforts to secure financial contributions to legal services programs throughout the state from the private bar and from private corporate sources. Individual legal services programs were also encouraged to seek their own funding through such means as operating their own case referral services for fees.

Since the completion of the 1995 State Plan, Missouri's legal services programs have exchanged information or applied jointly for: Grants to facilitate analysis of proposed welfare reform legislation, V.O.C.A. Grants, V.A.W.A. Grants, HUD Fair Housing Grants, Ryan White funding for AIDS projects and a public grant for a state-wide hotline for seniors.

In July of 1998, Missouri legal services program directors met to discuss other statewide funding opportunities for their programs. Joining the program directors were representatives of a firm that provides legislative representation in the Missouri legislature. The parties agreed that the ultimate goal would be to secure total funding from all sources of twenty million dollars to serve the legal needs of Missouri's poverty population. The IOLTA crisis should help support requests from the legislature in 1999 for an additional \$500,000 in general appropriation revenue. In the 1999 legislative session, the legal services programs will also seek revenue from the state's punitive damages fund (Tort Victims Compensation Fund) and from the state unclaimed property fund. Program directors also discussed ways in which private fundraising campaigns can be enhanced by programs throughout the state.

STRENGTHS OF THE CURRENT APPROACH

State funding has increased each year and has the potential to dramatically increase service to legal services clients or to substantially replace federal and IOLTA funding if necessary.

State legislative funding is distributed to legal services programs based on poverty population, assuring statewide political support for the funding.

Each legal services program in the state enjoys strong local political support that translates into funding support in the state legislature.

Statewide campaigns to obtain state funding is a unifying force for the state's legal services programs and raises consciousness throughout the state of the need for legal services for low-income persons.

State funding comports with current congressional sentiment to devolve power and responsibility to the states.

Sharing grant information and applications improves cooperation and coordination of services among legal services programs and helps maximize grant donors to programs.

WEAKNESSES OF THE CURRENT APPROACH

IOLTA funds are in jeopardy due to the *Phillips* decision, and future IOLTA funding is likely to decrease even if the *Phillips* issues are resolved favorably.

Even if the *Phillips* issues are resolved favorably, there is limited potential for the expansion of IOLTA.

IOLTA funds are dependent upon interest rates that are not likely to increase substantially in the foreseeable future, and bank mergers may lead to even lower interest rates on IOLTA accounts.

State funding from any source is vulnerable to state and local political concerns.

Currently, state funds are distributed by the Department of Social Services, which is often an adversary of legal services clients.

Bar dues check-off cannot raise substantial revenues for legal services.

Not all Missouri legal services programs conduct fundraising campaigns.

Lawyer referral services as revenue raising ventures by legal services programs might operate in direct competition with local bar referral services.

GOALS AND TIME TABLES TO EXPAND AND STRENGTHEN SERVICES TO ELIGIBLE CLIENTS

Secure passage of legislation to appropriate an additional \$500,000 for Missouri legal services programs in the 1999 legislative session.

Continue to expand funding from the Missouri legislature to an annual appropriation that would adequately meet the legal needs of low-income Missourians.

Transfer state funding for legal services to the budget of state's judiciary by the end of 1999.

Secure passage of legislation in the 1999 legislative session to appropriate a substantial sum from the state's punitive damages fund to Missouri legal services programs.

Secure passage of legislation in the 1999 legislative session to appropriate a substantial sum from the state's unclaimed property fund for Missouri's legal services programs.

Create private fundraising campaigns in each of the state's six legal services programs by the end of 1999.

Expand current fundraising campaigns by those legal services programs that have them by 100% by the end of 1999.

When the IOLTA issue is resolved favorably, work with major banks in Missouri to increase interest paid on IOLTA accounts.

Determine feasibility of securing legislation to add legal services surcharge to real estate

filings by the end of 1999.

Determine feasibility of establishing IOLTA type accounts for real estate funds held temporarily by title companies by the end of 1999.

Establish a program in each of the state's six legal services offices for obtaining referral fees from the private bar by the end of 1999.

Exchange information on grant possibilities and grant proposals via e-mail among all Missouri legal services programs on a regular basis beginning before the end of 1998.

7. Where there are a number of LSC-funded programs and/or the presence of very small programs, how should the legal services programs be configured within the state to maximize the effective and economical delivery of high quality legal services to eligible clients within a comprehensive, integrated delivery system?

Missouri's LSC-funded legal services programs have historically served Missourians well. The latest of the six programs came into existence in 1979. While Legal Aid of Western Missouri (LAWMO) and Legal Services of Eastern Missouri (LSEM) are large, principally urban programs, the other four are all thriving and are not categorized as "very small" legal services program. LAWMO and LSEM are principally (but not solely) staff attorney programs, with substantial private attorney involvement. Meramec Area Legal Aid Corporation (MALAC), Mid-Missouri Legal Services Corporation (MidMO), Southeast Missouri Legal Services (SEMO) and Legal Aid of Southwest Missouri (LASWM) are principally (but not solely) rural programs with a few staff attorneys and a large judicare and pro bono component. Like many states, the geographical regions of the state and the population are very diverse.

The programs have examined periodically the appropriate configuration of legal services in Missouri in order to assure, to the greatest extent possible, high quality, efficient, economical and accessible delivery of legal services to low-income persons of Missouri. Each time the question has been examined, including the current study by the Coordination Committee, the process has been very useful and has led to closer collaboration and coordination among the programs and among the bar. Each time the conclusion was reached that merger of the programs into one system would be counter-productive.

The configuration was first examined in 1978 by LSC at the request of the local programs. LSC recommended against merger because it found there would be no meaningful financial savings and because the diversity of the regions and the court systems served by the programs were better served by several programs than by one large centralized program.

In the early 1990's, four of the programs again examined merger, resulting in one small program, Northeast Missouri Legal Services, merging into LSEM. The others, however, found no prospective benefit to merger and did not change their configuration.

In 1995, as a result of the LSC program letter, the programs again examined reconfiguration to see if it would increase services. They again concluded, after careful examination, that there would be no meaningful financial savings by merger; that the diversity of the regions and of the courts in Missouri continued to be best served by several programs and that any forced merger would create a backlash and harm the

community and private bar support of the programs.

The Coordination Committee has now, pursuant to the current program letter, reached the same conclusion; that is: (1) the present configuration of six healthy, regional programs provides quality legal services to low-income persons by the most economical means; (2) the close coordination and interaction of Missouri's six programs does provide an informal, integrated, statewide delivery system in Missouri; and (3) mergers or consolidations of Missouri's legal services program would dilute local support by the private bar, the judiciary and community and would have a negative impact on the delivery of legal services of low-income persons.

STRENGTHS OF THE CURRENT APPROACH

Each of the programs is well known to the bar, the judiciary, service providers and the community at large that each serves, and each has a reputation for high quality work and has great credibility among those entities.

Each program has close relationships with and the support of the private bar in their communities because the program attorneys are involved in their local bar associations and each program has a strong PAI component.

Local, state and federal officials are aware of the programs in their area or district and regularly refer constituents to them for assistance.

The programs are accepted, trusted and well known to low-income persons in their service areas.

The programs are supported financially by their respective communities. The programs have also worked together to establish and/or obtain other significant, statewide financial resources.

The attorneys from the various programs have worked together to attack legal issues affecting low-income persons on a statewide basis.

The programs coordinate their training efforts and share costs in bringing in national experts.

The programs, through their priority-setting processes, are able to tailor their services to the most serious needs of each local community.

Each program has excellent local contacts with the social service agencies in their communities, and provides hotline services to clients for prompt referral to other service agencies in their community and also provides quick legal advice, prompt written documents and immediate legal representation when needed.

The directors of the programs meet on a regular basis and communicate by e-mail, fax, and teleconference to discuss topics discussed in the first six points above including: joint fund-raising efforts, development of *pro se* clinics, mediation services, substantive task forces and a web page for community access.

The programs share their intake processes, their client questionnaires, pamphlets for preventive legal education and pleadings and training materials.

The programs expend less than 10% of their funding on administrative costs and have very little bureaucracy.

The programs work together with The Missouri Bar to recruit *pro bono* attorneys in their communities, including the recent development of a videotape for recruiting volunteer attorneys.

The current configuration of six programs has a 20-year history that is well accepted by clients, the private bar, the judiciary and the community.

Missouri, through the corporation and collaboration of its six programs, has an informal, integrated, statewide delivery system that offers high quality and efficient legal services to low-income persons.

WEAKNESS OF THE CURRENT APPROACH

Certain administrative functions may lend themselves to consolidation.

GOALS AND TIMETABLES TO MAXIMIZE THE EFFECTIVE AND ECONOMICAL DELIVERY OF HIGH QUALITY LEGAL SERVICES THROUGHOUT MISSOURI

Each program director or a designee, beginning immediately, will research and consider the consolidation of certain administrative functions.

Each program will assume responsibility for at least one substantive area of law and that task force will be responsible statewide training.

The programs agree that a statewide technical structure is the key to developing and maintaining the most effective use of resources to deliver the highest quality and most efficient legal services to their clients and therefore fully commit themselves to the technology state plan. *See Section 2, supra.*

The programs will continue their joint efforts to increase current state legislative appropriation and will develop a plan to explore other funding issues. *See Section 6, supra.*

Edward Berg, Director, Mid-Missouri Legal Services Corporation (Date)

Richard Halliburton, Director, Legal Aid of Western Missouri (Date)

Doug Kays, Director, Legal Aid of Southwest Missouri (Date)

Sidney Pearson, Acting Director, Meramec Legal Aid Corporation (Date)

Lew Polivick, Director, Southeast Missouri Legal Services (Date)

Dianne Taylor, Director, Legal Services of Eastern Missouri (Date)

State Planning contact person is:

F. Dianne Taylor
Executive Director
Legal Services of Eastern Missouri, Inc.
4232 Forest Park Ave.
St. Louis, MO 63108
(314)534-4200, ext. 1122